

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CLYDE JORDAN,

Petitioner,

v.

Case No. 11-14358

LLOYD RAPELJE,

Respondent.

ORDER GRANTING MOTION TO AMEND HABEAS PETITION

Petitioner Clyde Jordan, a Michigan prisoner, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter is before the court on Petitioner's motion to amend his habeas petition "to preemptively address some of the procedural issues and defenses that [R]espondent might assert." (Mot. Amend 3.) Respondent has not yet filed an answer to the petition or the state court record.

Under the Federal Rules of Civil Procedure, a party may amend a pleading to which a response is required "once as a matter of course" within 21 days after service of a responsive pleading. Fed. R. Civ. P. 15(a)(1).¹ Since a responsive pleading has not yet been filed in this case, Petitioner has the right to amend his habeas petition without seeking the court's permission. See *Mayle v. Felix*, 545 U.S. 644, 655 (2005) ("Before a responsive pleading is served, pleadings may be amended once as a 'matter of course,' i.e., without seeking court leave." (quoting Fed. R. Civ. P. 15(a))). Accordingly,

¹Rule 15(a) applies to habeas cases as it applies to other civil cases. See 28 U.S.C. § 2242 ("Application for a writ of habeas corpus . . . may be amended or supplemented as provided in the rules of procedure applicable to civil actions.").

IT IS ORDERED that Petitioner's motion to amend his habeas petition [Dkt. # 5] is GRANTED. Petitioner's amended petition [Dkt. # 6] will be considered by the court. Respondent shall file an answer to the amended petition by April 16, 2012, in accordance with the October 17, 2011 order requiring a response [Dkt. # 4].

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 7, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 7, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522